

Appl. No. 10/791,976
Atty. Docket No. 9566
Amdt. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

REMARKS

Claim Status

Claims 1, 2 and 5-11 are pending in the present application. No additional claims fee is believed to be due.

Claims 3, 4 and 12 are canceled without prejudice.

Claim 8 has been amended to include the phrase, "the tampon holder tube further comprises".

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Response to Amendment

In the Response to Amendment of 18 July 2006 it was alleged that the reply filed on 20 April 2006 was not fully responsive to the Office Action because of the following omission(s) or matter(s):

Although on page 5 the amendment refers to an attached abstract, no such abstract is of record. Applicants are resubmitting an abstract with the present response.

It is also noted the description of Figure 1a is now incomplete, i.e. Figure 1a is now partly in section. The description of Figure 1a has been amended in the present response to read, "FIG. 1a is a side view of a feminine hygiene product with a cut out section showing the tampon in its pre-expelled state."

It is also noted that the requested changes to page 6, second line from the bottom were not made contrary to Applicants' remarks. Applicants have made the requested changes in the present response.

Appl. No. 10/791,976
Att. Docket No. 9566
Amend. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

Also, the objection to page 10, line 20 was not addressed at all. Applicants' respectfully disagree as the amendment filed on 20 April 2006 on page 4 had the following amendment:

Please replace the paragraph at page 10, lines 12-21, with the following amended paragraph:

It is further noted herein that the shape, size, or configuration of the rupturable membranous cap 16 may vary as long as the rupturable membranous cap 16 remains joined to the tampon 14 and reorients the tampon 14 during expulsion of the tampon 14. The rupturable membranous cap 16 is in no way limited by the size or shape that it may assume except that it should not hinder the expulsion of the tampon 14. One of skill in the art will readily recognize obvious variants on those presented in the patent application herein. One versed in the art can imagine that the shape of the rupturable membranous cap 16 might be circular, square, rectangular, triangular, arced, curved, or any other conceivable shape possible as long as any such shape would work effectively to fully and properly ~~aid~~ aid in joining the tampon 14 to the rupturable membranous cap 16 and reorienting the tampon 14.

In replacement Figure 2, the line 40 now appears to be dashed which is inaccurate. Line 40 in Figure 2 is not dashed however line 38 is dashed. Line 38 is dashed in Figure 2 as Figure 2 is a cut out cross section view along the longitudinal axis, and the bottom portion of the membranous cap referred to by line 38 lies behind the tampon 14 and therefore is out of view.

Also, in Figure 7c, 30 still denotes a curved line which is not a projection as described contrary to the arguments. Applicants restate their argument as originally presented in the response filed 20 April 2006, namely - Applicants respectfully traverse this objection. Figure 7c shows a projection 30 along the line of rupture 18. As shown in Figure 7c the projection 30 "projects" from the line of rupture 18. As stated in the Specification on page 19, paragraph 5 "In one non-limiting example, as shown in Figure 7c, although the projections 30 are located at the end of the rupturable membranous cap 16, the projections 30 may be located anywhere."

Appl. No. 10/791,976
Atty. Docket No. 9566
Amdt. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

Drawings

The drawings have been objected to because in Figure 1a it has been alleged that tampon 14 and the line there from should be shown in dashed lines to show underlying structure. Applicants respectfully traverse this objection. The tampon denoted by reference number 14 is not underlying structure as it is being viewed through a cut out section as shown in Figure 1. The dashed lines in Figure 1 denote the perforations along the line of rupture 18 not underlying structure. Additionally, Applicants have removed reference number 21, which had dashed lines.

The drawings have been objected to because in Figure 1a it has been alleged that numeral 20 does not clearly denote the outer perimeter. To more clearly show that reference number 20 denotes the outer perimeter an arrow has been added to the end of the reference line. Additionally the Specification in the last two lines on page 6 states that reference number 20 indicates the outer perimeter.

The drawings have been objected to because in Figure 1b it has been alleged that the ridge at the opposite end adjacent 20 in Figure 1a is not shown. Applicants have added another circle around the circumference of the existing circle of 1b to denote the ridge at the opposite end adjacent 20 in Figure 1a.

The drawings have been objected to because it has been alleged that Figure 2 is not a cross section along 2-2 as described on page 3. Applicants have added reference number 22 to the drawing to denote the longitudinal axis and have amended the description of Figure 2 to state that it is a cut out cross-section view along the longitudinal axis as originally noted with the phrase as described on page 3 of the Specification, "a line 2-2 of FIG. 1a" and page 7, lines 15-16 "Figure 2 shows a tampon holder tube 19 containing a tampon 14 which can be viewed through a cut out."

The drawings have been objected to because it has been alleged that Figure 2 the bracket denoted by reference number 26 does not denote only the end of the tampon 14 as described. The brackets from reference number 26 denoting the withdrawal end of the tampon have been changed to a line.

Appl. No. 10/791,976
Atty. Docket No. 9566
Amdt. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

The drawings have been objected to because it has been alleged that Figure 5 does not clearly denote reference number 15 therein. The line with the arrows from reference number 15 denoting the tampon top portion has been changed to a bracket.

The drawings have been objected to because it has been alleged that in Figure 7c, the structure denoted by reference number 30 does not clearly appear to be a projection as described. Applicants respectfully traverse this objection. Figure 7c shows a projection 30 along the line of rupture 18. As shown in Figure 7c the projection 30 "projects" from the line of rupture 18. As stated in the Specification on page 19, paragraph 5 "In one non-limiting example, as shown in Figure 7c, although the projections 30 are located at the end of the rupturable membranous cap 16, the projections 30 may be located anywhere."

Description

The abstract has been objected to as the following has been alleged. On lines 5 and 6, "a"(1st) should be ~~the~~. Also on line 6, after "aligned with", ~~the~~ longitudinal axis of~~—~~should be inserted. On the last line, "in the...position" should be deleted. These changes have been made. Please see attached replacement abstract.

The disclosure has been objected to for the following alleged informalities:

On page 3, line 6 "a tampon" should be ~~the tampon~~. This change has been made.

The description of Figure 2 on page 3 is inconsistent with the Figure 2 and page 7, lines 15-16. Applicants have added reference number 22 to the drawing to denote the longitudinal axis and have amended the description of Figure 2 to state that it is a cut out cross-section view along the longitudinal axis as originally noted with the phrase as described on page 3 of the Specification, "a line 2-2 of FIG. 1a" and page 7, lines 15-16 "Figure 2 shows a tampon holder tube 19 containing a tampon 14 which can be viewed through a cut out."

Appl. No. 10/791,976
Atty. Docket No. 9566
Amdt. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

On page 5, seventh line from the bottom, "expel," should be "expel",. This change has been made.

On page 6, second line from the bottom, "shown" (both) should be ~~denoted~~. This change has been made.

On page 9, line 14, "hinged 39" should be ~~hinge 39~~. This change has been made.

On page 10, line 20 and page 11, line 1 "aide" and "aides" should be ~~aid~~ and ~~aids~~, respectively. These changes have been made.

It has been alleged that the relationship between the tampon and the cap during expulsion is unclear, as claim 1 claims "said tampon contacts said...cap" yet claim 3 claims "said...cap...remains in association with...end of said tampon" and claim 4 claims "said...cap remains joined to...end of said tampon". Applicants have cancelled claims 3 and 4. The description of the tampon and rupturable membranous cap is set forth on page 2, lines 19-23 of the Specification, "The rupturable membranous cap covers at least a portion of the insertion end of the tampon. During expulsion of the tampon from the tampon holder tube, the tampon contacts the rupturable membranous cap and the rupturable membranous cap reorients the tampon into a direction substantially non-aligned to the longitudinal axis of the tampon holder tube." Therefore, it is Applicants position that the relationship between the tampon and the membranous cap during expulsion is clear.

Claim Objections

It has been alleged that in claim 1, line 8 "the" should be ~~a~~. Applicants have not been able to locate any improper antecedent basis in claim 1 and respectfully request the Examiner to further indicate the location of the improper antecedent basis. In regards to the objections to claims 3 and 4, claims 3 and 4 have been cancelled.

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Rejection Under 35 U.S.C. §112, First Paragraph

Claim 12 has been rejected under 35 U.S.C. §112, first paragraph, as based on a disclosure which is not enabling. While neither agreeing nor disagreeing with the rejection, Applicants in the spirit of compact prosecution are canceling claim 12 in the present response.

Claims 1-11 have been rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regards as their invention.

Applicants respectfully traverse the rejection of claims 1, 2 and 5-11 under 35 U.S.C. §112, second paragraph. The description of the relationship between the tampon and rupturable membranous cap is set forth on page 2, lines 19-23 of the Specification, "The rupturable membranous cap covers at least a portion of the insertion end of the tampon. During expulsion of the tampon from the tampon holder tube, the tampon contacts the rupturable membranous cap and the rupturable membranous cap reorients the tampon into a direction substantially non-aligned to the longitudinal axis of the tampon holder tube." Therefore, the language in claim 1, "said tampon contacts said...cap" is definite and adequately described in the Specification.

Claim 8 has been amended to include the phrase "the tampon holder tube further comprises", after "and".

It is Applicants' position that claim 1 as written, is clear, and distinctly claims the subject matter that Applicants regard as their invention and that the rejections should be withdrawn.

Claim Language Interpretation

Applicants acknowledge Examiner's interpretation of the claim language and neither agree nor disagree with said claim language interpretation.

Appl. No. 10/791,976
Atty. Docket No. 9566
Amtd. dated 14 August 2006
Reply to Response to Amendment of 18 July 2006
Customer No. 27752

Rejection Under 35 U.S.C. §102 Over U.S. 3,760,808 (Bleuer)

Claim 12 has been rejected under 35 U.S.C. §102(b) as being anticipated by Bleuer.

While neither agreeing nor disagreeing with the rejection, Applicants in the spirit of compact prosecution are canceling claim 12 in the present response.

Allowable Subject Matter

Applicants acknowledge that the Office Action states that the prior art references, alone or in any combination, do not teach a feminine hygiene product as set forth in claims 1-11.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the objections and rejections under 35 U.S.C. §112. Early and favorable action in the case is respectfully requested.

This response represents an earnest effort to place the application in proper form. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 1, 2 and 5-11 is respectfully requested.

Respectfully submitted,

THE PROCTER & GAMBLE COMPANY

By 
Signature

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